



HF 586 – Administrative Rules Reform (LSB 2491HV)

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Fiscal Note Version – New

Description

House File 586 grants new powers to the Administrative Rules Review Committee (ARRC) during the rulemaking process. Changes pertain to “emergency rulemaking” under [Iowa Code Section 17A.5\(2\)\(b\)](#) and notices of intended action filed by State agencies. This Bill makes the following changes:

- Rules may be adopted without notice only if authorized in statute or with the approval of the ARRC.
- Requires all rulemakings to be construed narrowly unless specifically authorized in statute.
- Authorizes the ARRC to object and suspend an “emergency rulemaking.”
- Expands the 70-day delay authority of the ARRC in the following circumstances:
 - Permits the ARRC to suspend an “emergency rulemaking” for 70 days with a two-thirds vote. The ARRC must hold the vote within 35 days of the effective date of the rule.
 - Allows the ARRC to issue a 70-day suspension of further action related to a notice of intended action.
 - The ARRC may issue a 70-day delay for a portion of a rule, and may do so for any reason.
- Expands Legislative session delay authority of the ARRC as follows:
 - The ARRC is granted the authority, with a two-thirds vote, to suspend the applicability of an “emergency rulemaking” until the adjournment of the next regular Session of the General Assembly. The Committee must vote within 35 days of the rule’s effective date.
 - The ARRC may use a Legislative session delay for a portion of a rule, and may do so for any reason.

Background

The Iowa Administrative Procedures Act of 1975, [Iowa Code chapter 17A](#), articulates the Iowa agency rulemaking process. Currently, rules promulgated under Iowa Code section 17A.5(2)(b), “emergency rulemaking,” are effective upon filing and are not subject to the 70-day authority of the ARRC. The ARRC currently has no authority relating to a notice of intended action filed with the ARRC until the adopted rule is filed with the ARRC following the notice. The ARRC may only utilize a 70-day or Legislative session delay for an entire rule (not just a portion of a rule). The ARRC, on average, utilizes the 70-day and Legislative session delays seven to eight times per year.

Assumptions

This Bill expands the authority of the ARRC. It is not possible to determine how the ARRC will apply its expanded authority. The fiscal impact of potential future action is unknown.

When not authorized in statute, the Committee will be required to approve “emergency rulemakings” prior to adoption by the Department. Implementing this process will require the development of a uniform process for the ARRC to authorize “emergency rulemaking” for State agencies in required circumstances. The fiscal impact of this process is unknown, and dependent on future decisions.

This Bill requires agencies to interpret a grant of rulemaking authority narrowly. This provision may lead to increased legal challenges and associated court costs. However, it is not possible to predict legal challenges, and the impact of this component is not possible to determine.

Fiscal Impact

The fiscal impact of [HF 586](#) cannot be determined. The Committee's application of its new authority and the effect of requiring a narrow interpretation of rulemaking authority are not possible to predict. The potential impact will be greatest for departments with a high volume of "emergency rulemakings." In 2011, the last year with complete information, State agencies filed 60 "emergency rulemakings" out of 310 total rules filed. Of those 60, 20 came from the Department of Human Services. Therefore, the Department of Human Services is likely to have the greatest potential to be impacted by these changes.

Source

LSA analysis

/s/ Holly M. Lyons

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
